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**California Department of Transportation
Native American Advisory Committee
Quarterly Meeting Minutes
November 5, 2003**

Joseph Myers, Chairperson, called the meeting to order at 9:11 a.m.

Roll Call: Committee members in attendance were Barbara Burke, Joseph Garcia, Sr., Michael Holman, Joseph A. Myers, Dave Nenna, Irenia Quitiquit, and Kathy Wallace. The Director's representative, Brian J. Smith, Deputy Director, Planning and Modal Programs, was in attendance.

Others in attendance included, Joan Sollenberger, Chief for the Division of Transportation Planning; Bruce Behrens, Chief Counsel for the Legal Division; Cathy Sandoval, Representative from the Business, Transportation and Housing (BT&H) Agency; Cynthia Gomez, Native American Liaison Branch; Evan Hong, Tribal Technical Assistance Program; Nancy Atkinson, Yurok Tribe; Sherry Johnstone, Title VI Coordinator; Tina Biorn, Environmental Analysis Division; Cassandra Hensher, California Basketweavers Association; Doug Sibley, District 4 Native American Liaison; Shannon Whiteman; CA/NV Ttap, Jila Priebe, Native American Liaison; Newell Mann, Graton Rancheria; Randolph Feliz, Hopland Rancheria, Marta Frasto, District 6 Native American Liaison; Kathleen Sartorius, District 2 Native American Liaison; and Kathleen McClafflin, District 10.

Adopt Agenda: Agenda was adopted by voice vote.

Approve Minutes: Minutes of the July 29, 2003 meeting were approved. Motion by Joseph Garcia, Sr.; seconded by Michael Homan. Vote was 6 For, 0 Against, 0 Abstain.

Joseph Myers welcomed everyone to the meeting. Brian J. Smith gave a brief summary of the Department's activities. He apologized that Director Morales could not attend the meeting due to conflicts in scheduling.

Cathy Sandoval, undersecretary from BT&H Agency expressed her appreciation for the invitation to attend the meeting and address the Committee. She stated that the Agency applauds the work of Caltrans and the Tribes in their efforts to work together to improve our infrastructures and roads, which is important for all citizens.

OLD BUSINESS:

1. **Legal Division.** Bruce Behrens, Chief Legal Counsel for the Department gave a brief update on the issue of contracting with Tribes. He explained that a legislative proposal was submitted to the Agency for review, if it is approved at that level, it will be forwarded to the Governor's office. Due to the chance in the administration it is uncertain whether the proposal will be approved or not.
2. **Environmental Justice Grant.** Joseph Myers reported that the National Indian Justice Center (NIJC) have completed the filming of the video production, which is part of the scope of work for the environmental justice grant NIJC received. Some of the areas that were filmed

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included the Yurok Reservation, Rincon Reservation, and Big Valley Rancheria. The video is in the postproduction phase and should be completed in the Spring. He said that Indian country throughout the nation has been dealing with environmental injustice, and Indian people have never really been at the table, he hopes this is a start to move things in a more collaborative direction.

3. **Legislative Subcommittee Report.** Cynthia Gomez, Chief, Native American Liaison Branch, reported on two bills that were recently passed by the California legislature which impact transportation issues with Tribes, SB621 and AB673. SB621 specifies in more detail than previous legislation on how the Special Distribution Fund will be distributed among the local governments through the creation of a “County Tribal Casino Account”, an “Indian Gaming Local Community Benefit Committee” in each county where Indian gaming is conducted, and would also require that grants be sponsored by a tribe paying into the Indian Gaming Special Distribution Fund. The Special Distribution Fund is money that the tribes who have gaming facilities pay the State of California a portion of their revenues. AB673 specifies that funding from the Special Distribution Fund will be given to the Department of Alcohol and Drugs for gaming addiction programs. Michael Holman asked if Tribes are paying for gaming addiction while other gaming businesses (horse racing, card rooms, etc.) and the State lottery are not contributing? It was unknown to the Committee whether other gaming businesses were contributing or not.

Tina Biorn noted that SB1828 might be back on the table in January 2004. SB1828 was a bill that would have provided more protection of cultural resources and sacred sites.

4. **Highway Landscaping Subcommittee.** Kathy Wallace reported that the Subcommittee would be meeting on 11/6/04 at 9 am at the Woodland Training Center. The Subcommittee’s mission is to protect and promote native plants and meet Caltrans’ needs. The Subcommittee members are talking to people in each department, i.e., maintenance, encroachment permits, etc., trying to find out if there will be any impacts to these programs and activities, prior to meeting with the public. Eventually, some kind of handbook or video will be developed.
5. **Reauthorization Act.** Cynthia Gomez reported that there are several bills that will impact transportation programs and funds for Tribal Governments. She gave out a listing of these bills to the Committee. The most notable being S281, S1122, S.725, HR2331, and Safe and Flexible Efficiency Transportation Act of 2003 (SAFETEA). The proposed bills, with the exception of SAFETEA, would increase funding for the Indian Reservation Roads Program.
6. **Environmental Subcommittee Report.** Jila Priebe, Native American Liaison of the Native American Liaison Branch, oversees this Subcommittee. She reported that the Subcommittee met at the Pechanga Indian Reservation on October 9, 2004. Approximately thirty people attended the meeting. NAAC Chairman, Joseph Myers attended and reported that concerns included racial attitudes from contractors and lack of contract provisions to ensure Native American monitoring to adequately protect the resources, in some cases the contractors get paid, but aren’t hiring monitors. Tina Biorn stated that the standard provision in the contracts is that at any time cultural materials are discovered, the contractor must stop work. Special provisions can be added. If the contractors do not follow the contract, there could be a breach of the contract. Another complaint was a job where the contractor was subcontracting out to a

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university, which subcontracted out to another university, by the time the monitors were hired; there wasn't enough money for the amount of monitors needed. Tina Biorn stated that the Division of Construction has Resident Engineers on the jobs, and they are the positions responsible for ensuring that contractors are doing what they are supposed to be doing on the job site. Bruce Behrens explained that there is a pre-job meeting with contractors and the Resident Engineer, and they go over a checklist of things that need to be done. Bruce said that he would check with that Program and emphasize the need to include monitors on the checklist.

Monitoring needs should be identified in the planning stage, before a project is funded, so funding needed for monitors can be properly budgeted. Joan Sollenberger stated that there is a long-standing memo out that says consultation begins at the earliest stages in planning.

The Environmental Division has completed the memo and background information sheet on the Department's policy for Native American Monitors. A copy was given to each of the Committee members, and can be found on the Department website.

7. Tribal Technical Assistance Program (TTAP).

Evan Hong, Director for the Tribal Technical Assistance Program for California and Nevada, announced a four-day transportation-planning workshop, which is free for tribal planners. The workshop will be held at the Woodland Training Center. A bi-state Tribal Transportation Conference is scheduled for the fall of 2004. The National Center for American Indian Enterprise Development is holding their annual conference in February 2004. Approximately 2,000 people and 200 vendors attend this event.

NEW BUSINESS:

- 1. Certificates for NAAC Members participation.** The certificates will be mailed out.
- 2. Nominations for 2003-2005 NAAC members.** There are eleven vacancies, and ten nominations were received. The Committee approved a 15-day extension for the receipt of additional nominations.
- 3. Report on the Inter-Tribal Transportation Association Conference.** Cynthia Gomez reported that the ITA annual conference was held in Las Vegas the week of November 27, 2003. Ms. Gomez attended on her own time and funds. She stated that tribes from all over the nation attended, and only one tribe from California was present, Randolph Feliz from the Hopland Rancheria. The topics covered many transportation subjects including maintenance, tribal-state relationships, funding for the Indian Reservation Roads Program, and the subject of taxation will be modified in a new FHWA policy on Tribal Employment Rights Ordinance (TERO).
- 4. Schedule 2004 NAAC meetings.** The Committee set the following days for the 2004 NAAC meetings, all to be held at the Woodland Training Center; January 14, May 5, August 4, and November 3, 2004. The Committee was complimented on their dedication and commitment to work with the Department to improve transportation for Native American communities. Joan Sollenberger stated that Chairman, Joseph Myers is

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a viable asset as a team player, which makes a big difference in getting results. Doug Sibley pointed out that the District 4 District Director and Metropolitan Transportation Commission Executive Director both wrote letters to Mr. Myers thanking him for his professionalism and hard work.

ADJOURNMENT:

Motion by Michael Holman to adjourn the meeting; seconded by Kathy Wallace. Vote was 6 For, 0 Against, 0 Abstain. The meeting was adjourned at 12:35 p.m.